



**Office of the Attorney General
State of Texas**

DAN MORALES
ATTORNEY GENERAL

May 26, 1995

Honorable John Sharp
Comptroller of Public Accounts
P.O. Box 13528
Austin, Texas 78711-3528

Letter Opinion No. 95-035

Re: Whether an appraisal district is
authorized to maintain and provide location
information for the provision of 9-1-1
service (RQ-707)

Ms. Mary A. Boyd
Executive Director
Advisory Commission on State Emergency
Communications
333 Guadalupe Street, Suite 2-212
Austin, Texas 78701-3942

Dear Mr. Sharp and Ms. Boyd:

You ask for our opinion on two questions relating to appraisal districts and the provision of 9-1-1 service. First, you ask generally whether an appraisal district is authorized to maintain location information and provide such information to a "public agency," as defined in Health and Safety Code section 771.001(7), for the purpose of providing 9-1-1 service. Second, if the appraisal district is so authorized, you ask whether section 771.053(b) of the Health and Safety Code (the "code") grants to the members of the governing body of an appraisal district immunity from liability for maintaining and providing such information for such purpose.

In response to a request from our office for a clarification of the functions that are or would be entailed in an appraisal district's maintenance and provision of location information for the purpose of providing 9-1-1 service, the Advisory Commission on State Emergency Communications ("ACSEC") has informed us that it has adopted the following definition of "addressing activities," which definition includes the maintenance and provision of location information:

Addressing Activities. The work associated with the inventory of a county for the purposes of rural addressing, conversion of box and route numbers to street addresses, correction of existing address errors, assignments of direction or grid locations, notification to residents of new addresses, resolution of address assignment problems, and installation of new street signs.

ACSEC also has informed us that

[t]he typical role of an appraisal district in the maintenance of addressing activities generally includes the provision of staff support for the [addressing activities]. Inherent in these activities is the creation/maintenance of a base map, the coordination with administering agencies in the development of the master street address guides which provide the enhanced 9-1-1 information, and dissemination of information to participating agencies, such as utilities, regional councils, public safety agencies. These activities, however, do not normally include the actual adoption of an addressing scheme or assignment of addresses.

Your request letter also asks that we reconsider Letter Opinion No. 94-16 (1994), which concluded that an appraisal district does not have authority to assign official addresses to rural parcels of land for the provision of 9-1-1 service. We understand that your questions here, regarding an appraisal district's maintenance and provision of location information, differ from those answered in that letter opinion in that they do not involve any official address-assignment function. Therefore, we are not reconsidering the conclusion of that letter opinion.

To determine whether an appraisal district is authorized to maintain location information and provide such information to a "public agency," as defined in code section 771.001(7), for the purpose of providing 9-1-1 service, we will apply the test set forth in Letter Opinion No. 94-16:

The supreme court in *Tri-City Fresh Water Supply District No. 2 v. Mann*, 142 S.W.2d 945 (Tex. 1940), stated that municipal corporations have "only such implied powers as are reasonably necessary to make effective the powers expressly granted," *id.* at 947, and determined that the powers of a fresh water supply district, which is constituted to exercise "a very limited number of corporate functions," should be construed even more strictly than those of a municipal corporation, *id.* at 948. In accordance with the *Tri-City* case, we held in Attorney General Opinion JM-72 "that an appraisal district can exercise only those powers and duties which are clearly set forth in the constitution and statutes of this state." Attorney General Opinion JM-72 (1983) at 2. An appraisal district is like the fresh water supply district in *Tri-City* in that it is constituted to exercise strictly delimited functions and has no broad police powers, *see* 142 S.W.2d at 948, and therefore may have [a] power by implication only if that power is reasonably necessary to make effective the district's clearly expressed powers and duties. That [a]

power would be merely convenient or useful to the performance of an appraisal district's express duties is not a sufficient reason to find that the power is implied. *Cf. id.* at 947 (powers of municipal corporation will not be implied because convenient or useful to exercise of express powers).

Letter Opinion No. 94-16 (1994) at 2. We therefore must consider whether the power to maintain and provide location information is vested in appraisal districts by express grant "clearly set forth in the constitution and statutes of this state," Attorney General Opinion JM-72 (1983) at 2, or is granted by implication because it is reasonably necessary to make effective the district's clearly expressed powers and duties.

Express statutory authority for the provision of 9-1-1 service is found in chapter 771 of the Health and Safety Code, but that authority does not extend to appraisal districts. Subsection (a) of section 771.055 of the code requires "[e]ach regional planning commission . . . [to] develop a plan for the establishment and operation of 9-1-1 service throughout the region that the regional planning commission serves." Subsection (b) of that section authorizes the administration of 9-1-1 service "by an emergency communication district, municipality, or county, by a combination formed by interlocal contract, or by other appropriate means as determined by the regional planning commission." An appraisal district is not an emergency communication district, a municipality, or a county and so does not have clear and express authorization under section 771.055 to administer 9-1-1 service. Consequently, an appraisal district cannot be impliedly authorized under that provision to maintain and provide location information that may be necessary to the administration of 9-1-1 service. *See Tri-City Fresh Water Supply Dist. No. 2 v. Mann*, 142 S.W.2d 945, 947 (Tex. 1940).

As you point out, however, "an appraisal district" is expressly included in the definition of "public agency" in section 771.001(7), which also includes "any other political subdivision or district that provides, participates in the provision of, or has authority to provide fire-fighting, law enforcement, ambulance, medical, 9-1-1, or other emergency services." Code section 771.056 requires a regional planning commission to submit its regional plan to the ACSEC for approval or disapproval. Code section 771.052 provides that "[e]ach public agency and regional planning commission shall cooperate with [ACSEC] to the fullest extent possible." As an exception to this requirement, code section 771.058(a) makes participation by a public agency in a regional plan optional in a county with a population of 120,000 or less "unless the . . . public agency chooses to participate in the plan by resolution of its governing body." We do not believe that the requirement of section 771.052 that an appraisal district, as a "public agency," "cooperate . . . to the fullest extent possible" constitutes a clear express grant of an additional power or authority to *maintain* location information that an appraisal district is not otherwise authorized to maintain.

On the other hand, section 771.052 does mandate that public agencies and the regional planning commission work together and provide assistance to each other. This mandate clearly includes authority by implication to *provide* location information that an appraisal district maintains under legal authority. An appraisal district's provision of location information to the regional planning commission and other public agencies for the purpose of providing 9-1-1 service would constitute both "participat[ion] in the provision of . . . emergency services" under section 771.001(7) and cooperation with ACSEC under section 771.052.

An appraisal district also has other express statutory or regulatory duties that we must consider. Tax Code section 25.01(a) requires the chief appraiser to list all the district's taxable property. Tax Code section 25.02(a) requires appraisal records to comply with form requirements prescribed by the comptroller. Tax Code section 25.03(a) requires property descriptions in appraisal records to be sufficient to identify the property. Tax Code section 25.03(b) authorizes the comptroller to make rules establishing minimum standards for such property descriptions. Various provisions in chapter 9 of title 34 of the Administrative Code contain requirements for an appraisal district's tax records. Among the record-keeping duties of an appraisal district found in chapter 9 are the development and maintenance of the following information: appraisal cards for all appraised real estate that include, among other things, a legal description of the land and its appraised value, 34 T.A.C. § 9.3001; tax maps covering all the area of the taxing units served by the appraisal district, which maps include "numbers, letters, or names for all delineated lots or parcels," *id.* § 9.3002; and appraisal records of all property appraised by the appraisal district, which records include, among other things, the legal description of property that is real estate, the appraised value of the property, and "the name and address of the owner or, if the name or address is unknown, a statement that it is unknown," *id.* § 9.3004.

We believe that Administrative Code section 9.3002 expressly and clearly authorizes the maintenance of address records, which constitute "numbers, letters, or names for all delineated lots or parcels." Thus, we conclude that appraisal districts are authorized to maintain location information in the form of official addresses.

In answer to your first question, then, we believe that an appraisal district is authorized to maintain location information and to provide such information to another public agency for the purpose of providing 9-1-1 service.

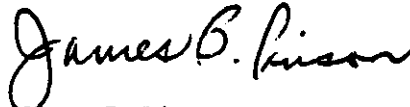
We now consider your second issue, whether section 771.053(b) of the Health and Safety Code grants to the members of the governing body of an appraisal district immunity from liability for maintaining and providing such information for such purpose. Section 771.053(b) grants immunity from liability to "the governing body of a public agency . . . for any claim, damage, or loss arising from the provision of 9-1-1 service unless the act or omission causing the claim, damage, or loss violates a statute or ordinance applicable to

the action." As we noted above, an appraisal district is a "public agency." Health & Safety Code § 771.001(7). We accordingly conclude that code section 771.053(b) grants to the members of the governing body of an appraisal district immunity from liability for "any claim, damage, or loss arising from" the maintenance of location information and the provision of such information to another public agency for the purpose of providing 9-1-1 service "unless the act or omission causing the claim, damage, or loss violates a statute or ordinance applicable to the action."

S U M M A R Y

An appraisal district is authorized to maintain location information and to provide such information to another public agency for the purpose of providing 9-1-1 service. The members of the governing body of an appraisal district are immune from liability for "any claim, damage, or loss arising from" the maintenance of location information and the provision of such information to another public agency for the purpose of providing 9-1-1 service "unless the act or omission causing the claim, damage, or loss violates a statute or ordinance applicable to the action." Health & Safety Code § 77.053(b).

Yours very truly,



James B. Pinson
Assistant Attorney General
Opinion Committee